

Per

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHERYL NOAH-BURSETH,)

Plaintiff,)

vs.)

No.04 C7739

AMERICAN AIRLINES, INC., and)
AMR CORPORATION,)

Defendants.)


MEMORANDUM OPINION AND ORDER

Plaintiff was struck in her foot by a beverage cart while on an American Airlines flight. There seems to be no dispute about that. But plaintiff wants punitive damages in Count III, contending that defendant was guilty of reckless conduct. Defendant disagrees and moves for summary judgment on Count III. We grant the motion.

The record, as presented to the court, consists of the testimony of the plaintiff and of a passenger. Their stories differ somewhat. According to plaintiff, her foot was not in the aisle, the cart was angled-in when it struck her, the flight attendants were not solicitous and they delayed in getting her an ice pack. According to the passenger, the plaintiff had her foot three or four inches into the aisle, the cart was wholly within the aisle, the plaintiff was "irritated" or "hot," and the flight attendant was solicitous and did provide an ice pack almost immediately.

Be that as it may, regardless of who is correct on some of the details, it is clear that plaintiff was not paying much attention until she was struck, and the passenger was able to see the cart as it passed him -- he was sitting behind the plaintiff. He has testified that the cart was

being pushed and pulled in the normal fashion, and at the normal speed. It was an unfortunate accident, but what plaintiff has to add (which is not much) does not elevate the incident to reckless conduct.



JAMES B. MORAN
Senior Judge, U. S. District Court

Nov. 3, 2006.